



04-10-06

JPM

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## TRANSMITTAL FORM

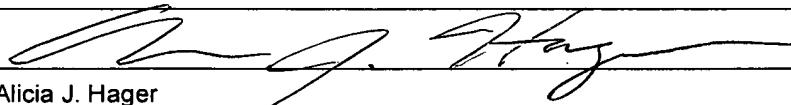
(to be used for all correspondence after initial filing)

		Application Number	10/773,792
		Filing Date	February 6, 2004
		First Named Inventor	Thomas W. DUBENSKY, Jr.
		Art Unit	1645
		Examiner Name	J. Graser
Total Number of Pages in This Submission	15 + 60 Refs.	Attorney Docket Number	282172002900

### ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	1. Form PTO/SB/08a/b + copy (8 pages) 2. Cover Sheet for References Vol. 1 of 2 (1 page) 3. Cover Sheet for References Vol. 2 of 2 (1 page) 4. Sixty (60) References 5. Return Receipt Postcard
<input checked="" type="checkbox"/> Information Disclosure Statement (Supplemental – 4 pages)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Remarks	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

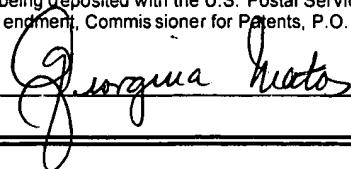
### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MORRISON & FOERSTER LLP (Customer No. 25226)		
Signature			
Printed name	Alicia J. Hager		
Date	April 10, 2006	Reg. No.	44,140

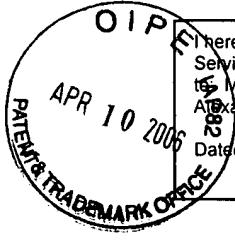
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 596702514 US, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 10, 2006

Signature:



(Georgina Matos)



I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 596702514 US, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 10, 2006

Signature:

(Georgina Matos)

Patent  
Docket No. 282172002900

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Thomas W. DUBENSKY, Jr. et al.

Serial No.: 10/773,792

Filing Date: February 6, 2004

For: LISTERIA ATTENUATED FOR ENTRY  
INTO NON-PHAGOCYTIC CELLS,  
VACCINES COMPRISING THE  
LISTERIA, AND METHODS OF USE  
THEREOF

Examiner: J. Graser

Group Art Unit: 1645

## SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. §1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO/SB/08a/b. Copies of foreign documents and non-patent literature are submitted herewith. The Examiner is requested to make these documents of record.

Applicants note that the document submitted herewith as "Brockstedt, D. et al. (March 2003). "Recombinant Attenuated *Listeria monocytogenes* Elicits Robust Cellular Immune Response to Tumor-Associated Antigen in *Listeria* Immune Mice," *Proceedings of the American Association for Cancer Research, 94th Annual Meeting*, April 5-9, 2003, Toronto, Ontario, Canada, 44:194, Abstract No. 851, one page" (Ref. No. 16) was previously submitted with the Information Disclosure Statement filed on July 21, 2004, but was incorrectly identified on the Form PTO-1449 filed on that date as "Brockstedt, D. et al. (March 10, 2003). "Recombinant Attenuated *Listeria monocytogenes* Elicits Robust Cellular Immune Response to Tumor-Associated Antigen in *Listeria* Immune Mice," Abstract #851, posted online at *Days of Molecular Symposium* website, one page" (Ref. No. 76) due to inadvertent error.

Applicants would also like to draw the Examiner's attention to the fact that Ref. No. 3 submitted herewith is a translation of Ref. No. 10 (FR 2 686 896) previously submitted on January 6, 2005. Ref. No. 5 submitted herewith is a translation of Ref. No. 14 (WO 99/29884) submitted on January 6, 2005. Ref. No. 6 submitted herewith is a translation of Ref. No. 48 (WO 01/27295) submitted on July 21, 2004.

Applicants would also like to draw the Examiner's attention to the co-pending applications listed below:

Application Serial No. 10/883,599, filed June 30, 2004 by Dubensky, Jr. et al. and  
Application Serial No. 11/173,770, filed June 30, 2005 by Dubensky, Jr. et al.

This Supplemental Information Disclosure Statement is submitted:

- With the application; accordingly, no fee or separate requirements are required.
- Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.

- Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
  - A fee is required. A check in the amount of \_\_ is enclosed.
  - A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
  - A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
  - A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of \_\_ is enclosed.
  - A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.

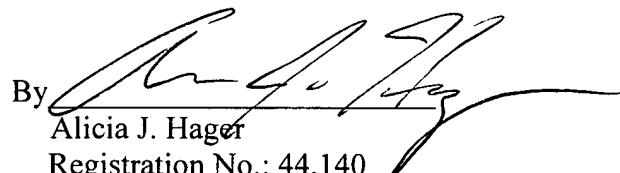
Applicants would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petition and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 282172002900.

Dated: April 10, 2006

Respectfully submitted,

By   
Alicia J. Hager  
Registration No.: 44,140

MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
(650) 813-4296